

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF KANSAS**

**UNITED STATES OF AMERICA,**

**Plaintiff,**

**v.**

**FENG TAO,**

**Defendant.**

**Case No. 19-20052-JAR**

**ORDER**

On November 4, 2021, the Government filed a motion under Fed. R. Crim. P. 15 seeking to take depositions of five witnesses.<sup>1</sup> During a status conference held on November 9, 2021, the Court set November 23, 2021, as the response deadline and November 30, 2021, as the reply deadline.<sup>2</sup> On November 23, 2021, Defendant Feng Tao responded with a combined filing styled “Dr. Franklin Tao’s Opposition to the Government’s Motion for Rule 15 Depositions and Objection to Continued Trial Date.”<sup>3</sup> Now before the Court is the Government’s Motion for Extension of Time to File Reply/Response (Doc. 202). The Government requests a one-week extension of time—until December 7, 2021—to reply and respond to Defendant’s combined filing. Defendant has filed a response brief opposing the requested extension.<sup>4</sup>

Under D. Kan. Local Rule 6.1(a), a motion for an extension of time must, among other things, set forth “the cause for the requested extension.”<sup>5</sup> The Government states in its motion that it “needs additional time to reply to Defendant Tao’s response to the Government’s motion

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<sup>1</sup> Doc. 186.

<sup>2</sup> Doc. 189.

<sup>3</sup> Doc. 201 (sealed); *see also* Doc. 199 (redacted version).

<sup>4</sup> Doc. 204.

<sup>5</sup> D. Kan. Local R. 6.1(a)(4).

for depositions and to respond to the defendant's objection to the previously granted continuance.”<sup>6</sup> “Since Defendant Tao improperly raised a separate issue in his response,” the Government explains, “[its] initial estimate of seven days to file its re[ply] is no longer feasible, particularly in light of the Thanksgiving holiday.”<sup>7</sup>

Defendant responds that the motion for extension of time fails to satisfy D. Kan. Local Rule 6.1(a)(4) because it does not explain why the Government needs seven more days to file its reply brief. He also contends that, apart from failing to provide a valid reason for the requested extension, the Government does not have one. In Defendant's view, the Government should not need more time to reply to his response to the Rule 15 motion, as he previously made many of the same arguments in his motion to strike filed on November 8, 2021, effectively giving the Government more than three weeks to review and address them in its reply brief. He also asserts that the Government should not need an additional week to respond to his “objections” to the Court's decision to continue the trial date, as they “[ar]e purely factual” and “cite[] no case law.”<sup>8</sup> Defendant suggests that the Government prepare an affidavit to attach to its reply brief if it thinks he inaccurately recites the facts. Finally, Defendant asks the Court to deny the motion for extension of time so that the parties can proceed to trial on December 6, 2021, or as soon as possible thereafter. He asserts that the Government has “repeatedly delayed these proceedings,” and “[e]very week [it] delays is a week [he] is denied his right to a speedy trial.”<sup>9</sup>

Defendant's assertion that the Government fails to provide a valid reason for the requested extension is wrong. Although the Government initially requested seven days to file its

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<sup>6</sup> Doc. 202 ¶ 4.

<sup>7</sup> *Id.*

<sup>8</sup> Doc. 204 ¶ 9.

<sup>9</sup> *Id.* ¶ 10.

reply brief, it now explains that it needs one more week because Defendant's response brief goes beyond responding to the pending Rule 15 motion and raises a new issue. Indeed, Defendant included in his response brief a five-and-a-half-page "Objection to Continued Trial Date," and then docketed this combined filing as a motion. The Court construes Defendant's "Objection to Continued Trial Date" as a motion to reconsider, and this motion must be fully briefed before it is ripe for resolution. Pursuant to D. Kan. Local Rule 6.1(d)(1), the Government has fourteen days to respond to this motion. If Defendant had properly filed his motion to reconsider as a separate motion on the docket, there would be no reason for it to impact the reply deadline for the Rule 15 motion. But Defendant instead chose to tack the motion onto his response brief, and because of that choice, the Court will give the Government seven more days, for a total of fourteen days, to file a combined reply and response brief. Thus, the Court grants the Government's motion for extension of time.

**IT IS THEREFORE ORDERED BY THE COURT** that the Government's Motion for Extension of Time to File Reply/Response (Doc. 202) is **granted**. The Government shall file its combined reply and response brief by **December 7, 2021**. Defendant Feng Tao may file a reply, if any, to the Government's response to the motion to reconsider by **December 14, 2021**.

**IT IS SO ORDERED.**

Dated: December 1, 2021

S/ Julie A. Robinson  
JULIE A. ROBINSON  
UNITED STATES DISTRICT JUDGE